

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8849 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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ASSOCIATED CEMENT CO LTD

Versus

STATE OF GUJARAT

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Appearance:

MR DS NANAVALI for Petitioners  
MR HM BHAGAT for Respondent No. 1  
SERVED BY RPAD for Respondent No. 2  
NANAVALI ASSOCIATES for Respondent No. 3

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 29/08/96

ORAL JUDGEMENT

This Special Civil Application under Article 226 of the Constitution of India has been filed seeking direction against respondents No.1 and 2 i.e. State of Gujarat and Collector, Bhuj to execute a deed granting prospecting licence for the survey numbers which are mentioned at Annexure 'D' to the petition.

2. The petitioner was granted a prospecting licence vide order dated 24.8.1995 for the area admeasuring 267.71.98 hectares of land bearing a certain survey numbers of village Motiber, District Kutch for mineral limestone for a period of two years. The petitioner received a communication dated 6.10.1995 from the office of the Collector, Bhuj that by order dated 24.8.1995, they were sanctioned Mining lease for the area of 267.71.98 hectares in Abdasa. It is further stated that in the said sanctioned area, M/s.Sanghi Industries Ltd. has been given land admeasuring 122.05.85 hectares for their plant site. On this matter, a clarification was sought from the Mines Department.

3. It is contended by the learned Advocate for the petitioner that once the prospecting licence was granted in favour of the petitioner, it was not open for the respondents not to execute agreement for the said area for whatsoever reason. The action on the part of the respondents No.1 and 2 has been described as arbitrary. It is argued by Mr K S Nanavati, Sr.Advocate appearing for respondent No.3 that the disputed area for which licence has been granted in favour of the petitioner was not free for grant of licence for the reason that it was already granted to respondent No.3 under the provisions of Section 37 of the Bombay Land Revenue Code by order dated 6.7.1994. The occupancy price was paid on 17.7.1994 and the possession was delivered on 18.7.1994.

4. Having heard the learned Advocates for the parties, I find no merit in this Special Civil Application. It is evident from the facts stated above that on 24.8.1995 when the prospecting licence was issued in favour of the petitioner, the disputed area admeasuring 122.05.85 hectares was not available for grant of prospecting licence. Thus, apparently, sanction for that area in favour of the petitioner was erroneous. There is no vested right in the matter of grant of prospecting licence.

5. In view of the aforesaid, there is no merit in this Special Civil Application is rejected. Notice discharged. No order as to costs.

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